

United States Senate  
WASHINGTON, DC 20510-4802

June 16, 2011

The Honorable Hilda Solis  
Secretary  
United States Department of Labor  
200 Constitution Avenue NW  
Washington, D.C. 20210

Dear Secretary Solis,

You have been such a strong advocate for workers in our country, and I appreciate all that you have done both in Congress and as Secretary of Labor. I am writing today with the hope that you can provide me with additional information about a very important issue that we have discussed in the past – the elimination of retiree health coverage by Century Aluminum in West Virginia. In an effort to make sure that retirees are receiving the full benefit of their rights under federal law, I have several outstanding questions about the company's offering of six months of "COBRA" coverage to its early retirees.

On November 1, 2010, the company sent a letter to its early retirees notifying them that their Retiree Health Benefits Program would cease on December 31, 2010, and that as a result of the loss of this coverage, the company would offer "continuation of coverage ("COBRA")". The company further promised to "subsidize the full cost of the COBRA premium" until June 30, 2011. On December 16, 2010, Principal Financial Group followed up by sending a packet of information to the early retirees titled "COBRA Continuation of Group Health Coverage Notification and Election Form" which was sent "in order to comply with COBRA law". This document sets forth the retirees' rights under the Consolidated Omnibus Budget Reconciliation Act of 1985, including for up to 18 months of COBRA coverage.

While Century Aluminum and Principal Financial Group are clearly describing these COBRA benefits as those that are afforded to employees under federal law, I have received conflicting information about whether or not the company is actually offering COBRA coverage under federal law. For example, the loss of coverage after a person has retired is typically not a qualifying event for COBRA, which has led to concerns that perhaps the employer is offering something besides federal COBRA.

In conversations with several experts on this issue, I have been informed that there may be a tie-in with Trade Adjustment Assistance (TAA) benefits that might allow Century Aluminum to participate in COBRA for its retirees. This appears to be supported by Department of Labor materials which indicated that the Trade Adjustment Assistance Act of 2002 provides "certain workers...who qualify for trade adjustment assistance with a second opportunity to elect COBRA continuation coverage". If that is the case, I would be interested to know whether or not these employees are receiving the full benefit of the TAA program, which includes a tax credit to pay for between 65 and 80 percent of health insurance premiums depending on when the TAA application was filed. This would clearly be a huge help for these retirees to pay for their health insurance once the company stops paying for COBRA at the end of June.

I have also been informed during these conversations that some employers often refer to "COBRA" when offering their laid-off or retired employees health benefits of a limited duration, even though they are not offering true COBRA coverage under the federal program or in compliance with federal law. If true, this raises an additional concern that companies are providing misleading information to their employees and raising an expectation that the employees are receiving health care under federal law, and backed by the federal government, when in fact they are not.

As you mentioned in an earlier letter to me, participation in COBRA depends on several factors related to the retiree plan. Therefore, I respectfully request that you assist me in finding out exactly what type of coverage Century Aluminum is offering to its retirees, and whether the retirees are receiving the full benefit of the federal COBRA and TAA programs. Specifically, I am hoping that you can answer the following questions:

1. Knowing that loss of retiree health benefits is not typically a "qualifying event" under COBRA, does Century Aluminum qualify for COBRA for its retirees under federal law, and what specific program requirements is the company meeting in order to qualify?
2. If Century Aluminum qualifies for COBRA based on a connection to the TAA program, do their early retirees also qualify for the tax credit to pay for 65 to 80 percent of their health care premiums? Have employees been made aware of their rights?
3. Is Century Aluminum currently taking advantage of TAA-related tax credits on behalf of its retirees in order to satisfy its promise to subsidize the full cost of COBRA premiums until the end of June? If so, have employees been notified of this?
4. How common is the practice of offering benefits to employees and referring to them as "COBRA", when in fact the company does not qualify for COBRA under federal law? What remedies are available to employees or the government to prevent companies from misleading employees into thinking that they are receiving federally-backed COBRA benefits, when in fact they are not?

I want to be clear that the provision of health care coverage to retirees for as long as possible under any circumstances is my number one priority. I ask these questions with the goal of ensuring that retirees get the full benefit of federal law.

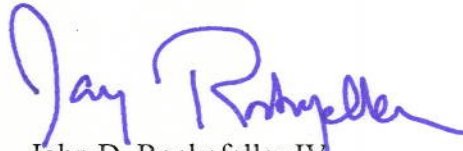
*Secretary Hilda Solis*

*June 16, 2011*

*Page 3*

Thank you again, Madam Secretary, for all that you have done so far to help me find ways to protect retirees in West Virginia and to make sure that they get the health care that they need. I look forward to receiving your responses to these questions.

Sincerely,



John D. Rockefeller IV